

Steven L Klinger Jr. & Sheila J Klinger
8503 163rd St Court East
Puyallup WA 98375

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON

Steven L Klinger Jr. & Sheila J Klinger

Plaintiff,

vs.

Wells Fargo

Defendant

Case # C10 5546 RJB

**PETITION FOR NO ANSWER
DEFAULT**

Date: September 17th, 2010

PARTIES

PLAINTIFF'S REQUEST FOR ENTRY OF DEFAULT

Plaintiff asks the court clerk to enter a default against Defendant, as authorized by Federal Rule of Civil Procedure 55.

A. Introduction

1. Plaintiff is: Steven L Klinger, Jr. & Sheila J Klinger , 8503 163rd St Court East Puyallup WA 98375, and Defendant is: Wells Fargo.

2. On 08/05/2010 Plaintiff sued Defendant for breach of fiduciary duty, fraud, fraud by nondisclosure, and violations of various consumer protection laws.

3. On 08/05/2010, Plaintiff filed with the court an ORIGINAL COMPLAINT. On 08/05/2010 Defendant was served with a summons and a copy of Plaintiff's complaint through U.S. Mail. A copy of the return of service is attached as Exhibit A. Defendant did not file a responsive pleading or otherwise defend the suit.

4. Plaintiff is entitled to entry of default.

B. Argument

5. The court clerk may enter a default against a party who has not filed a responsive pleading or otherwise defended the suit. Fed. R. Civ. P. 55(a); *see United States v. \$23,000 in U.S. Currency*, 356 F.3d 157, 163 (1st Cir. 2004); *N.Y. Life Ins. Co. v. Brown*, 84 F.3d 137, 141 (5th Cir. 1996); *United States v. 51 Pieces of Real Prop. Roswell, N.M.*, 17 F.3d 1306, 1314 (10th Cir. 1994).

6. The clerk should enter a default against Defendant because Defendant did not file an answer within 20 days after 08/09/2010, the date of service. Fed. R. Civ. P. 12(a)(1)(A)(i).

7. Plaintiff meets the procedural requirements for obtaining an entry of default from the clerk as demonstrated by Carey R. White's sworn affidavit, attached as Exhibit A. Said affidavit establishes by sworn testimony of Plaintiff that Defendant failed to answer or otherwise defend the instant action within the 20 day time period allowed by law.

8. Defendant is not a minor or an incompetent person. *See* Fed. R. Civ. P. 55(b)(1).

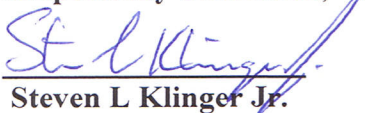
9. Defendant is not in military service. *See* 50 U.S.C. app. §521(b)(2).

10. Because Defendant did not file a responsive pleading or otherwise defend the suit, Defendant is not entitled to notice of entry of default. *Haw. Carpenters' Trust Funds v. Stone*, 794 F.2d 508, 512 (9th Cir. 1986); *see* Fed. R. Civ. P. 55(a).

C. Conclusion

11. Plaintiff filed a suit against Defendant in the court on the 5th day of August, 2010. Defendant failed to timely answer or otherwise defend said action and, thereby, Plaintiff is entitled to judgment against Defendant is all things requested by Plaintiff in the suit. For these reasons, Plaintiff asks the clerk to enter a default in favor of Plaintiff.

Respectfully Submitted,


Steven L Klinger Jr.


Sheila J Klinger

VERIFICATION

We, Steven L. Klinger Jr. & Sheila J Klinger , do swear and affirm that all statements made herein are true and accurate, in all respects, to the best of my knowledge.

Steven L. Klinger Jr. & Sheila J Klinger
8503 163rd St Court East
Puyallup WA 98375

SWORN TO AND SUBSCRIBED BEFORE ME, Michelle A. Cook, by Steven L. Klinger Jr. & Sheila J Klinger on the 17th day of September, 2010, which witnesses my hand and seal of office.

Michelle A Cook
NOTARY PUBLIC IN AND FOR
THE STATE OF WASHINGTON

Michelle A. Cook
1-29-14

